VI. COMMERCIAL LEASED ACCESS

The Notice seeks comment on how to best implement the amendments to Section 612, the commercial leased access section of the Act. Notice, ¶¶ 146-173. Although the 1992 Act amends this section significantly, Section 612(c)(1) has been preserved. Section 612(c)(1) states, in pertinent part, that "the cable operator shall establish . . . the price, terms, and conditions of [commercial leased access] use which are at least sufficient to assure that such use will not adversely affect the operation, financial condition, or market development of the cable system." 47 U.S.C. § 532(c)(1). The Commission must be mindful that in implementing the 1992 Act it not diminish the import of this provision.

Because Section 612, and perhaps even the underlying policy, contains potentially contradictory goals and objectives, TCI asked Besen et al. to focus attention on this particular subject. As their analysis demonstrates, there is considerable risk that small errors by the Commission here could have disproportionately adverse effects on the cable industry and cable consumers. See Besen et al., at 53-56.

Attempts have been made for over twenty years to implement leased access principles. However, such proposals were principally rejected until the 1984 Act which set forth a requirement that cable operators make a portion of their system capacity available for lease by unaffiliated programmers. As set forth by Besen et al., excessive reliance on leased access may have adverse consequences on the welfare of the viewing public. See id. As explained therein, the investment in system capacity improvements may be forestalled, the ability of "minority" programmers to secure channel capacity may diminish, and the migration of existing programmers to leased access channels may be encouraged. Id. at 53-54.

A. Leased Channel Rates

The regulatory scheme contemplated for leased access varies significantly from that set forth for basic service tier regulation. Rather than set a reasonable rate for leased access, as the Act contemplated for basic services, the establishment of a maximum rate is envisioned for leased access. Congress plainly intended that actual leased access arrangements would deviate from this maximum ceiling. The Senate Report illustrates the intent to establish a ceiling rate, and no more: "the operator and the programmer can bargain for a lower rate." Senate Report at 32. In this regard, the Notice, in discussing various benchmark and cost-of-service approaches, contemplates a far more elaborate plan than the statute allows. Notice, at ¶ 148-151. The Commission need not set a rate for leased access; it must set only a maximum rate under which a cable operator and lessees are free to negotiate lower prices and other terms and conditions.

The maximum rate, if set too low, can have profoundly adverse consequences. The principal danger is described by Besen et al. as "migration." Besen et al., at 55. If the FCC by regulation sets too low a rate for leased access, then programmers currently carried by the cable operator will be encouraged to "migrate" to leased access. Id. This incentive will be greatest for the most successful programmers, the ones who contribute a disproportionately high share of the revenues used to cover the cable operator's fixed costs. Id. If a cable operator loses these programmers to migration, it loses those revenues, and its ability to cover its costs is proportionately diminished. Even the ability of these programmers to threaten to migrate can produce similarly damaging effects. Such a result is plainly at odds with Section 612(c)(1)'s directive that leased access not adversely affect the financial condition of the cable system. Act, § 612(c)(1). It also fails to promote the diversity policy of the section.

Thus, "the Commission should set maximum access fees at a level that will discourage . . . migration." Besen et al., at 58. To do this, the maximum rate should be set "at or near the highest implicit access fees that are currently being charged." Id. Of course, as pointed out, cable systems might well find it desirable to charge less than the maximum fee to some channel lessees just as they currently find it profitable to accept relatively low implicit access fees from some cable programmers. Id. The cable operator also is free to incorporate other forms of compensation. For instance, some cable systems may arrange to receive compensation through revenue sharing mechanisms, and/or through arrangements for local advertising availabilities.

To set the rate by a different formula would encourage migration, contrary to the specific mandate of the statute. See Act, § 612(c)(3) ("Any cable system channel designated in accordance with this section shall not be used to provide a cable service that is being provided over such system on the date of the enactment of this title, if the provision of such programming is intended to avoid the purpose of this section"). Thus, as a matter of law and policy, migration must be avoided in the Commission's schema.

TCI supports the Notice's observation that nothing in the Act authorizes the Commission to require that cable operators provide billing and collection services.[43] Nor is such a requirement necessary. As the Notice observes, a competitive market already exists for billing and collection services. Detariffing of Billing and Collections Services, 102 F.C.C. 2d 1150 (1986), recon. denied, 1 F.C.C. Rcd 445 (1986). This finding is equally applicable to the billing and collection services provided by cable companies. Where such a

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43 Notice, at ¶ 146. The legislative history to the 1984 Act specifically stated that such services were not required to be provided. House Report at 52.

marketplace exists, Congress intended the Commission to rely upon it.

All Section 612 provides to leased access users is access to channel capacity under certain conditions; cable operators are under no obligation to (though, of course, they are free to) provide placement on a particular channel, or provide ancillary services such as billing and collection, marketing, etc. The Commission should make this clear in its implementation order.

B. Rates for Not-for-Profit Programmers

The Notice seeks comment on the need for additional regulation governing the use of leased access by not-for-profit programmers. Notice, at ¶ 153. It is unclear, however, why this subject was even raised. First, the 102nd Congress gave absolutely no indication that it was concerned or even thinking about this issue. While there was some minor evidence in the legislative history to the 1984 Cable Act regarding Congressional interest in non-profit lessees,[44] the 1992 Act and its history are utterly silent. Given that the Act comprehensively revamps much of the industry, after years of

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44 Discounts for non-profits under Section 612 are discretionary. The 1984 Cable Act's legislative history noted that a cable operator may favor select programmers at its discretion, not that a discount is required in any particular case. H.R. Rep. No. 934, 98th Cong., 2d Sess., at 51 (1984).

study and hearings, this silence should be construed as a deliberate intent to not revisit the issue.

Second, nothing in either the 1984 or the 1992 Cable Act suggests that the Commission establish any special subsidized rate for 501(c)(3) organizations. The Notice appears to recognize that lower rates for non-profits will require subsidies to be generated. These monies will have to flow from cable operators, commercial (for-profit) lessees, and/or subscribers. The proposition for internal subsidies has long-since been discredited and discarded; the Commission has been a chief witness to these problems in telephony. Moreover, a principal goal of the 1992 Cable Act is to promote subscriber choice. It would thus be incongruous and indeed ultra vires for the Commission to promulgate rules that would force subscribers to underwrite the costs of programs they do not want.

The design of Title VI establishes that public access requirements be imposed solely through the local franchise process, not by the FCC. See Act, § 611(a). Any concern that non-profit groups will somehow not have adequate access to cable facilities under section 612 ignores the ample availability of PEG access under Section 611, as well as non-commercial must-carry rights under Section 615. Further reconstruction of the not-for-profit issue would be social engineering, and plainly beyond the Commission's jurisdictional reach.

C. <u>Resolution of Complaints.</u>

To expedite the resolution of complaints as directed by Congress, the Commission should specify that the cable television special relief procedures shall be available to complainants. 47 C.F.R. § 76.7.[45] Without this avenue of relief, the statute directs complainants to federal district court, with Commission processes only available "upon a showing of prior adjudicated violations". <u>Act</u>, § 612(e)(1). An express provision which affords access to FCC special relief procedures to resolve initial complaints will significantly facilitate the expeditious resolution of disputes. In fact, the special relief provisions of the Commission's cable television rules provide authority for the Commission to direct expedited pleading cycles where necessary.[46]

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45 The special relief process is also the most effective and efficient means for the Commission to monitor the effectiveness of the implementation of this section. By monitoring complaints on a regular basis, the Commission can quickly determine whether there are implementation problems, and if so, what the specific problems are. It is premature to adopt an elaborate reporting system, which would only add to the regulatory burdens and costs of cable companies imposed by the Act.

46 The normal 30 day response time to a special relief petition should not be routinely altered, and the proposal to set a 10 or 15 day response time should be rejected. In most cases it will take at least a week for a petition to reach the proper individual in a cable company. At that point, facts must be reviewed and a response prepared. Under most scenarios, 30 days is the minimally acceptable response time.

The Commission should require that any access complaint be filed within 60 days after the occurrence of the action underlying the complaint. Bona fide applicants for leased access who feel they have legitimate complaints should be required to seek relief promptly. Otherwise, as the Commission observes, cable companies could be subject to numerous complaints after the factual record has become stale. Moreover, as more time passes, the availability of capacity will change and the status quo will be inevitably altered, thus complicating the nature and form of relief that will be deemed appropriate if a violation of the statute is established.

Because the special relief procedures already provide for expedited consideration of complaints, the Commission should not issue oral rulings. Given the availability of the expedited process, there is no justification for requiring access prior to a Commission decision. Any other approach would be contrary to the statutory requirement that the cable operator's price, terms and conditions be deemed reasonable absent clear and convincing evidence to the contrary. The access user can readily obtain a refund from the operator of any overcharges identified by the Commission.

The parties should be permitted to mutually choose to proceed by Alternative Dispute Resolution procedures. Because the procedure is voluntary, the parties could opt to utilize it at any time. Local franchising authorities are preempted by the Act to resolve leased access disputes. 47 U.S.C. § 532(b)(2), (c)(4)(A)(iii).

The Notice further questions whether such "emergency" procedures such as oral rulings should be established. Notice, at ¶ 167. It is frankly difficult to conceive of what situations involving leased access programming would require "emergency treatment." We can think of none. Controversies will arise over time, as negotiations which have continued over some period would fail to establish a mutually satisfactory arrangements. Under such typical conditions, however, an expeditious pleading cycle (30 days for opposition; 15 for reply), should be more than adequate. The Commission's statutory obligations should not be sacrificed in this cause, however: all rulings must be in writing.

VII. SUBSCRIBER BILL ITEMIZATION

Section 622(c) of the Act permits operators to itemize franchise fee, PEG access costs and other fees on subscribers' bills. Act, § 622(c). In the Notice, the Commission proposes to adopt the interpretations of the provision contained in the unadopted House Report. Notice, at ¶ 175. The House Report provides that operators' costs and fees associated with the franchise may be itemized, but only by "burying" then as part of the grand total of the cable service.[47] Adoption of this interpretation is improper in view of the plain language of the statute which clearly permits operators to itemize on a separate line of the subscriber bill fees and costs which Congress specified. A statute that is clear and unambiguous on its face need not and cannot be interpreted -- only statutes that are of doubtful meaning are subject to the process of statutory construction.[48] Section 622(c) presents no ambiguity relating to an operator's ability to itemize.

Moreover, obscuring the fees in the "total" bill defeats the very accountability Congress hoped to achieve on the part of local governments. In introducing the Senate Amendment providing for line itemization, Senator Lott of Mississippi called for an "openness in billing" that would identify for subscribers "hidden, unidentified" fees or taxes that the operator must pay and which are often passed on to

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47 The House Report considered the example of an operator who charges $28.50 for basic cable service and pays $1.50 in franchise fees. The Report directed the operator to invoice the subscriber $30.00, not $28.50 plus $1.540. House Report at 86.

48 See 2A Norman J. Singer, Sutherland Statutory Construction § 45.02 at 5 (5th ed. 1992) (emphasis added); see also ACLU v. FCC, 823 F.2d 1554, 1567 (D.C. Cir. 1987); cert. denied, 485 U.S. 959 (1988) ("If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.").

subscribers.[49] Senator Lott recounted the cities' history of extracting fees and other payments:

> [L]ook at the history, the record of the cities and municipalities in this area... [I]t is one of the things that led us to the problems we had before 1984. There are many horror stories of how the rates were set, how the franchises were granted. In one instance, ... the applicant had to promise to plant 20,000 trees in order to win the local cable franchise. Do we want that? In several cities ... [they] extracted early upfront payments of several million dollars in anticipated franchise fees from the local cable companies. That is no way to be doing this business.

Id. Clearly, burying these identified costs and fees in a "total" defeats the subscriber education benefit Congress intended.

Undue emphasis on the total bill creates practical difficulties as well. For example, many operators provide service over multiple local jurisdictions. Medium and large size systems routinely cross city, county, township and private community boundaries, each with separate franchise fees and distinct PEG access and other requirements. Marketing the service in the area becomes nearly impossible because operators cannot afford to tailor each advertisement to each community of a system where individual community sizes may range from less than 200 subscribers to over 60,000. Broadcast "spots" would become lengthy programs and the marketing "pitch" would be completely diluted. Accordingly, for this purpose cable

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49 See 138 Cong. Rec. S569 (1992).

service must be permitted to be advertised as, for example, "$20 plus franchise fees and taxes." Once advertised, the system CSR explaining the service and the subsequent subscriber bill would provide the appropriate pricing schedule for the individual jurisdiction.

In reconciling Section 622(c) with Section 623 on rate regulation, the Commission should clarify that for the purpose of line itemization, operators may identify costs for "other services required by the franchise". This is appropriate because Section 623(b)(2)(C)(vi) of the Act directs the Commission to take into account such costs in prescribing rate regulation. These costs are significant. Apart from PEG access support, an operator's franchise may require provision of an institutional network, specialized municipal video services, and voice and data transmissions. These costs far exceed most PEG access requirements and directly impact subscriber rates. Accordingly, subscribers should be afforded the opportunity to see what they are paying for.

CONCLUSION

The importance of this proceeding -- to cable companies, related industries, and most importantly in terms of the "public interest" standard, cable subscribers -- must be fully understood. Short term, static "gains" cannot be truly evaluated without regard to the longer term, dynamic effects on these interested parties. The record shows that the long term effects of overly restrictive regulation could be substantially negative, resulting in a significant diminution of consumer welfare. The Commission's implementation should strive to avoid that possibility.

Respectfully submitted,

Tele-Communications, Inc.

Sue D Blumenfeld

Philip L. Verveer
Sue D. Blumenfeld
Michele R. Pistone
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, N.W.
Suite 600
Washington, DC 20036-3384

Its Attorneys

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AN ANALYSIS OF CABLE TELEVISION RATE REGULATION

by

Stanley M. Besen
Steven R. Brenner
John R. Woodbury

Charles River Associates Incorporated

January 27, 1993

INTRODUCTION

The Federal Communications Commission has solicited comments on the most appropriate manner for regulating subscriber rates for basic and cable programming services.[1] In addition, the Commission is seeking comments on the appropriate form of regulation of rates for commercial leased access. Further, the Commission is soliciting views on the suitability of using conventional accounting measures for purposes of regulating subscriber rates on a traditional cost-of-service basis, on the appropriate division of labor between federal and local authorities in regulating rates, on complaint procedures to be used in triggering reviews of rates for cable programming services, on rate deaveraging, and on bill itemization.

This paper focuses on the alternative forms of subscriber rate regulation being considered by the Commission and on the ways in which the leased access provisions of the Cable Act might be implemented. We conclude that the Commission should, to the extent

[1]Federal Communications Commission, Notice of Proposed Rulemaking in the Matter of Implementation of Sections of the Cable Television Consumer Protection Act in 1992 (Rate Regulation) (MM Docket 92-266), released December 24, 1992. In Section 623 (b)(7), the 1992 Cable Act describes basic service as "a separately available basic service tier to which subscription is required for access to any other tier of service." The Act goes on to require that at a minimum, basic service will consist of all must-carry stations and all public educational, and governmental access channels. Section 623 (1)(C)(2) defines "cable programming service" as "any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis.

permitted by the 1992 Cable Act, avoid adopting a regulatory regime for subscriber rates that risks reversing the gains experienced by consumers since the passage of the 1984 Cable Act. The history of FCC regulation of the cable television industry reveals the difficulties of accurately gauging the value placed by consumers on additional programming. As a result, the Commission has often adopted policies that have reduced the appeal of cable television, thereby disadvantaging consumers. Because the quality of service that cable systems find it profitable to offer depends on the rates they can charge, rates that are set too low can be more harmful than rates that are set too high. Following deregulation, consumers gained greatly from higher quality programming; indeed the evidence to date indicates that they gained more from higher quality than they lost from higher prices.

We also believe that the Commission's tentative conclusion not to use conventional cost-of-service regulation is appropriate. Such regulation can impose substantial costs on consumers, particularly in a market like cable television that is characterized by product or process innovation. As we discuss below, the nearly continuous introduction of new program services, and new ways of delivering those services, render the cable industry and cable consumers particularly vulnerable to the rigidities of cost-of-service regulation. In addition, of course, cost-of-service regulation discourages efficiency in production and creates large administrative costs.

Our third conclusion is that, whatever regulatory regime the Commission puts in place, it should permit cable systems to recover cost increases that are associated with increases in the amount and improvements in the quality (or "production values") of their service.[2] Otherwise, the Commission, at a minimum, risks freezing cable service in its current form and, at worst, risks reversing improvements in service that have occurred over the past fifteen years. One possible way to prevent FCC rate regulation from constraining improvements in service quality is for the Commission to permit operators to increase rates as the number of services offered and the cost of programming increase. Another, complementary, approach, is to scrutinize cable program service rates less stringently than rates for basic cable service.

Given the costs of cost-of-service regulation, we conclude that the use of benchmarks that mimic rates that would be charged by systems facing competition may best suit the principles that should guide the selection of a basic rate regime. Compared to cost-of-service regulation, the use of competitive benchmarks should be more easily implemented, should encourage efficiencies in production, and should provide greater incentives to cable operators for innovation and service improvements.

While a benchmark approach to basic rate regulation can be much less onerous than traditional cost-of-service regulation, it

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[2]By increases in the amount, we mean increases in the <u>number</u> of cable program services that are offered to consumers. Alternatively, increases in the number of program services offered can be thought of as increases in the quality of cable service.

nonetheless raises the possibility that, for some cable systems, the benchmark rate may be too low. In that event, the Commission should permit such systems to petition for relief. However, such petitions should be the exception and not the rule.

Two different sections of the Cable Act (Sections 623(b) and 623(c)) create two different standards for FCC oversight of rates for basic services and those for cable programming services. The Notice, however, seems to suggest that the rate-oversight standards for cable programming services should be similar, if not identical, to those for basic services, despite the fact that each regulatory regime is governed by different sections of the Act. The language of the Cable Act of 1992, and its legislative history, appear to support the view that rates for cable programming services should be regulated differently from those for basic service. We conclude that less stringent oversight of cable program service rates will encourage cable systems to add more services, as well as support the development of new services, by permitting operators to do so profitably. We consider some alternative ways in which these rates might be scrutinized without unnecessarily limiting improvements in cable service.

The final issue addressed in this paper is that of the rates to be charged for leased access. The Commission has expressed concern that low leased access rates might merely result in a windfall to some program services without producing an improvement in the fare available to cable subscribers. More importantly, the Commission has noted that, if access rates are set too low, the financial well-being of cable operators may be significantly affected by encouraging the migration of highly profitable services to leased access channels. To render this outcome less likely, we recommend that the Commission set the access rate at or near the highest implicit access charges that currently exist.

PREVIOUS EXPERIENCE WITH CABLE REGULATION

Given the success of the cable television industry over the past decade, it is easy to forget the period during which regulation, and in particular federal regulation, substantially retarded the growth of the industry. The principal restriction during cable's early years was on the types of service that cable could offer. When these restrictions were removed, cable began to offer to its subscribers the large number and wide array of programs that we now take for granted.

We recite this fact because, just as cable was directly restricted in the past in its ability to provide the public the services it desired, it may be similarly restricted indirectly if the rates it can charge for service are unduly constrained. Setting the prices of cable services at levels that render unprofitable higher quality but higher cost programming can reduce the value of cable services to consumers as much as, and in the same way as, past limitations on the programming that could be offered by cable systems.

A Brief History

During the 1940s and 1950s, the Commission largely ignored the nascent cable television industry, which at that time provided clearer reception for local stations and offered the promise of importing to local viewers distant stations that could not be received over the air.[3] In the 1960s, the Commission began paying more heed to the arguments of local television broadcasters that the ability of cable operators to retransmit non-local television signals to cable subscribers threatened the broadcasters' economic viability, or at least their ability to satisfy their FCC-imposed public interest obligations.

Responding to broadcasters' complaints, the Commission in 1966 effectively prohibited the importation of non-local signals by cable systems in larger markets and compelled cable systems in all markets to carry all local broadcast signals. Systems inside the largest markets could not import a more distant signal if a closer station were available, even if, or perhaps because, the more distant signal was more popular than the closer signal. These were the so-called leapfrogging rules. These programming limits confined the growth of cable television to rural areas, thereby drastically reducing the potential revenue base that could support an entirely new set of nationally-available program services designed for cable viewers.

Subsequently, the Commission adopted additional regulations that amplified this effect. In 1969, the Commission required systems with 3500 or more subscribers to originate their own programming, because the Commission believed that consumers would benefit from the additional diversity without any undue harm to

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[3]For a more complete history and citations to the relevant FCC and court decisions, see S.M. Besen and R.W. Crandall, "The Deregulation of Cable Television," Law and Contemporary Problems (Winter 1981), pp. 77-124.

local broadcasters. But the Commission then went on to restrict the placement of advertising on cable programs. In 1970, the Commission permitted cable systems to offer programming charged to subscribers on a per-channel or per-event basis, but prohibited the carriage of series programs of any type, severely constrained the sporting events that could be carried, and permitted the showing of movies only if they were less than two or more than ten years old. In 1972, the Commission slightly relaxed its ban on distant-signal importation in larger markets, but also prescribed which distant-signal systems could be retransmitted, the number of channels large-market systems must have, how channel capacity was to be increased over time, and the kinds of public access to be offered.

Starting in 1976, the Commission began to withdraw from the cable field. The initial steps included the relaxation of its distant-signal carriage rules and the elimination of the leapfrogging rule. This trend culminated in 1980 with the Commission completely eliminating its distant-signal rules. Perhaps even more important was a court decision vacating the Commission's restrictions on pay programming. And, without appreciating the full implications of its actions, the Commission both reduced the prescribed minimum size of television receive-only earth stations and eliminated the need to have each such earth station licensed by the FCC. This last decision paved the way for the more rapid development of satellite services.

While ascribing all of the subsequent improved performance of the cable industry to the Commission's reversal of its restrictive cable policies may be an exercise in overstatement, it is unlikely that this policy reversal had only minor effects on that performance. The accompanying table illustrates some of the dramatic changes that occurred beginning in 1976. Between 1976 and 1984, basic subscribership and the number of systems offering more than 12 channels to subscribers nearly tripled while the number of nationally distributed satellite services rose from 4 to 49. Moreover, it was following the beginning of the Commission's policy reversal that the major urban areas finally became profitable to wire, greatly increasing the subscriber base for new programming services.

It was also during this time that local authorities began filling the regulatory void left by the FCC, as they began to establish costly conditions for franchise grants and renewals. As impressive as cable's post-1976 growth was, the effect of these local restrictions was to raise the price and reduce the value of cable service to consumers below what it otherwise would have been in a more consumer-oriented regulatory environment.[4]

With the passage of the 1984 Cable Act and the subsequent deregulation of basic cable rates, cable industry growth continued. Between 1984 and 1992, the number of subscribers nearly doubled to 53 million, the number of nationally distributed satellite services

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[4]W.B. Shew, The Costs of Cable Television Requirements (National Economic Research Associates, 1984).

HISTORY OF CABLE GROWTH
1976-1992

	1976	1984	1986	1992
Total Subscribers (millions) (1)	10.8	29.0	37.5	53.0
National Cable Video Program Networks (2)	4.0	49.0	60.0	76.0*
Percent of Systems with channel capacity greater than 12 (3)	23.4	62.0	74.1	91.4
Percent of Systems with channel capacity greater than 30 (3)	na	38.3	51.3	74.3
Percent of Subscribers having access to systems with channel capacity greater than 30 (3)	na	58.3	73.7	95.2

*1991

Sources:

(1) Television & Cable Factbook No.60, Warren Publishing, 1992, pg. G-64. (Numbers are of January 1 of each year.)

(2) Cable Television Developments, NCTA, October 1992, pg. 7-A. (Numbers are as of year-end. Superstations included.)

(3) Television (& Cable) Factbook, 1976-1992. (Published by Television Digest, Inc., 1976-1987, by Warren Publishing, Inc., 1988-1992. Non-reporting systems were excluded from these calculations.)

rose to 76, and the twelve-channel cable system was rapidly approaching extinction. By 1992, over 74 percent of all systems were offering subscribers more than 30 channels of service. Between 1984 and 1992, the percentage of subscribers with access to more than 30 channels of service rose from 58.3 to 95.2.

As the table suggests, one of the major effects of the deregulation of subscriber rates has been a very substantial increase in the number of basic (i.e., non-premium) program services offered by cable systems to their subscribers. As a result, as reported by the General Accounting Office, the average rate per channel offered rose by only about 3 percent for the most popular cable service and by only about 6 percent for the lowest price service over the three-year period between November 30, 1986, and December 31, 1989, after accounting for inflation.[5] Over the approximately four and one-half year period from November 30, 1986, to April 1, 1991, the average rate per channel offered rose by

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[5]Telecommunications: Follow-Up National Survey of Cable Television Rates and Services, Report to the Chairman, Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, House of Representatives, June 1990. The rates of increase reported are for the entire three-year period, not the annual rates of increase. It should also be observed that rates for premium services declined during the same period, as economic theory would suggest. Subscribers to premium service will be those consumers who value the premium service at its price or greater and who value the combination of basic and premium service at their combined price or greater. Other things equal, the higher is the basic rate, the lower must be the rate for premium service that will attract any given number of subscribers.